

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION**

In re:)	
)	Case No. 09-06989-8-JRL
COOPERATIVE BANKSHARES, INC.)	Chapter 7
)	
Debtor)	

NOTICE OF REMOVAL

NOW COMES James B. Angell, chapter 7 trustee for Cooperative Bankshares, Inc. (hereinafter "Trustee"), by and through undersigned counsel, and gives notice of removal of this civil action to the United States Bankruptcy Court for the Eastern District of North Carolina, Wilmington Division, and pursuant to 28 U.S.C. § 1452 and Fed. R. Bankr. P. 9027 states the following:

1. The Debtor filed a petition for relief under chapter 7 of title 11, United States Code, in the United States Bankruptcy Court for the Eastern District of North Carolina, New Bern Division on August 19, 2009.
2. This civil action is being removed to the United States Bankruptcy Court for the Eastern District of North Carolina pursuant to 28 U.S.C. §§1452(a), Fed.R.Bankr.P. 9027 and the standing order of the United States District Court.
3. This civil action is a core proceeding under 28 U.S.C. §§157(b)(2)(A), (B) and (O).
4. The Debtor is entitled to the removal of this civil action pursuant to 28 U.S.C. §1452(a), in that the bankruptcy court to which it is removed has jurisdiction

over this civil action pursuant to 28 U.S.C. §1334 and this matter arises in and relates to the Debtor's chapter 11 bankruptcy case.

5. The civil action sought to be removed is styled William J. Connors, Fred A. Barnette, H. Spencer Everett, Jr. v. Cooperative Bankshares, Inc. d/b as Cooperative Bank, Directors: F. Peter Fensel, Jr., James D. Hundley, H. Thompson King III, R. Allen Rippey, Frederick Willetts, III and O. Richard Wright, Jr., in the North Carolina Court of General Justice, Superior Court Division, New Hanover County, Case No. 09 CVS 06005. Copies of all process and pleadings are attached to this filing collectively as Exhibit A. (the Notice of Removal as originally filed in the Superior Court for Carteret County does not have the exhibits attached since the court record constitutes the exhibits.)

This the 16th day of December, 2009.

HOWARD, STALLINGS, FROM & HUTSON, P.A.

By: 

James B. Angell

NC State Bar No. 12844

Philip W. Paine

NC State Bar No. 31710

Attorneys for the Debtor

Post Office Box 12347

Raleigh, North Carolina 27602

(919) 821-7700



Dec. 11. 2009 5:22PM THE MCGOUGAN LAW FIRM

No. 6491

STATE OF NORTH CAROLINA

File No.

09 CV 000600

New Hanover

County

FILED

In The General Court Of Justice

2009 DEC -9 PM 4:02

☐ District ☒ Superior Court Division

Name Of Plaintiff

William J. Connors, Fred A Bamente, H. Spencer Everett, Jr

NEW HANOVER COUNTY C.S.C.

Address

1321 South Moorings Drive

BY

City, State, Zip

Wilmington, NC 28405

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

VERSUS

Name Of Defendant(s)

Cooperative Bankshares, Inc., Peter Fensel Jr., James D. Hundley

Date Original Summons Issued

G.S. 1A-1, Rules 3, 4

12-09-2009

☒ Date(s) Subsequent Summons(s) Issued

H. Thompson King III, R. Allen Rippy, Frederick Willetts III et al

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

R. Allen Rippy

101 Circle Drive

Wilmington, NC 28403

Name And Address Of Defendant 2

O. Richard Wright Jr.

202 Lewis Street

Tabor City, NC 284652

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

William J. Connors, Fred A Bamente, H. Spencer Everett, Jr.

1321 South Moorings Drive

Wilmington, NC 28405

Date Issued

12/9/09

Time

4:07

☐ AM ☒ PM

Signature

D. Michael Christopher

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 10/01
© 2001 Administrative Office of the Courts

(Over)

A TRUE COPY
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY

BY DC
Assistant/Deputy, Clerk Superior Court

Dec. 11. 2009 5:22PM THE MCGOUGAN LAW FIRM

No. 6491 P. 3

RETURN OF SERVICE		
I certify that this Summons and a copy of the complaint were received and served as follows:		
DEFENDANT 1		
Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
<input type="checkbox"/> By delivering to the defendant named above a copy of the summons and complaint. <input type="checkbox"/> By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein. <input type="checkbox"/> As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below. <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div> <p style="font-size: small; margin-top: 5px;">Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)</p> <input type="checkbox"/> Other manner of service (specify) <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>		
<input type="checkbox"/> Defendant WAS NOT served for the following reason: <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div>		
DEFENDANT 2		
Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
<input type="checkbox"/> By delivering to the defendant named above a copy of the summons and complaint. <input type="checkbox"/> By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein. <input type="checkbox"/> As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below. <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div> <p style="font-size: small; margin-top: 5px;">Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)</p> <input type="checkbox"/> Other manner of service (specify) <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>		
<input type="checkbox"/> Defendant WAS NOT served for the following reason: <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div>		
Service Fee Paid \$	Signature Of Deputy Sheriff Making Return	
Date Received	Name Of Sheriff (Type Or Print)	
Date Of Return	County Of Sheriff	

Dec. 11. 2009 5:22PM THE MCGOUGAN LAW FIRM

G 9 No. 6491 P. 4
6005

WILLIAM J. CONNORS **FILED**
1321 South Moorings Drive
Wilmington, NC 28405 2009 DEC -9 PM 4: 06
910-509-1736

NEW HANOVER COUNTY, N.C. IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
NEW HANOVER COUNTY

William J. Connors
Fred A. Barnette

BY _____

and
H. Spencer Everett, Jr.

Plaintiffs,

v.

DOCKET NO.:

CIVIL ACTION

COMPLAINT

Cooperative Bankshares Inc., D/B
As Cooperative Bank, Directors:
F. Peter Fensel Jr., James D.
Hundley, H. Thompson King III,
R. Allen Rippy, Frederick Willetts III
and O. Richard Wright Jr.

Defendants

A TRUE COPY
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY

Constant _____ Clerk Superior Court

The Plaintiffs, William J. Connors, Fred A. Barnette and H. Spencer Everett, Jr.,
complaining of the above Defendants, Cooperative Bankshares Inc., Cooperative Bank,

Dec. 11. 2009 5:23PM THE McGOUGAN LAW FIRM

No. 6491 P. 5

and Directors: F. Peter Fensel Jr., James d, Hundley, H. Thompson King III, R. Allen Rippy, Frederick Willets III, and O. Richard Wright Jr. state that:

1. Plaintiffs, (hereafter sometimes referred to as "Shareholders") are William J. Connors, hereafter, who lives at 1321 South Moorings Drive; Fred A. Barnette who lives at 1924 London Lane, and H. Spencer Everett, Jr., who lives at 1511 Pembroke Jones Drive, all in Wilmington, North Carolina 28405.

2. The Defendant Cooperative Bankshares Inc., hereinafter referred to as the "Company" was duly incorporated in the State of North Carolina on April 21, 1994, authorized to conduct business as Cooperative Bank, hereinafter referred to as the "Bank" with its principal office located at 201 Market Street, Wilmington, North Carolina.

3. The Defendant Directors, hereinafter referred to as the "Board of Directors" are:

F. Peter Fensel Jr. presently residing at 2502 Highland Drive, Wilmington, North Carolina;

James D. Hundley, presently residing at 1117 Windsor Drive, Wilmington, North Carolina;

H. Thompson King III, presently residing at 2602 Park Avenue, Wilmington, North Carolina;

O. Richard Wright Jr., presently residing at 202 Lewis Street, Tabor City, North Carolina;

R. Allen Rippy, presently residing at 101 Circle Drive, Wilmington, North Carolina; and

Frederick Willets III, presently residing at 1110 Windsor Drive, Wilmington, North Carolina.

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4. The Plaintiffs state that the Directors and Officers of the Company did operate the Bank in a reckless, wonton and/or negligent manner under unsafe and unsound banking practices in violation of State and Federal banking regulations all to the financial and economic detriment of the Bank and Shareholders.

5. The Board of Directors was reckless, wonton, and/or negligent for failing to provide adequate supervision over, and direction to the officers and management staff of the Bank, all to the financial and economic detriment of the Bank and Shareholders.

6. The Board of Directors was reckless, wonton, and/or negligent in operating the Bank with management policies and practices that were detrimental to the Bank, and jeopardized the safety of its deposits, all to the financial and economic detriment of the Bank and Shareholders.

7. The Board of Directors was reckless, wonton, and/or negligent permitting the Bank to operate with inadequate equity capital and reserves in relation to the volume and quality of assets held by the Bank, all to the financial and economic detriment of the Bank and Shareholders.

8. The Board of Directors was reckless, wonton, and/or negligent in evaluating and granting substantial loans to individuals, companies and corporations without sufficient financial documentation, collateral and justification, resulting in substantial losses, all to the financial and economic detriment to the Bank and Shareholders.

9. The Board of Directors was reckless, wonton, and/or negligent in operating the bank with larger than acceptable volume of poor quality loans resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.

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10. The Board of Directors was reckless, wonton, and/or negligent in operating the Bank in such manner as to produce large operating losses, all to the financial and economic detriment of the Bank and Shareholders.

11. The Board of Directors was reckless, wonton, and/or negligent in operating the Bank with an inadequate allowance for loan and lease losses resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.

12. The Board of Directors was reckless, wonton, and/or negligent in operating the Bank with ineffective and hazardous lending and lax collection practices resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.

13. The Board of Directors was reckless, wonton, and/or negligent in failing to maintain adequate documentation in its loan files in order to properly monitor each loan resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.

14. The Board of Directors was reckless, wonton, and/or negligent in operating with inadequate liquidity and funds management practices and supervision resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.

15. The Board of Directors was reckless, wonton, and/or negligent in permitting the Bank to operate with an excessive interest rate sensitivity risk resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.

16. The Board of Directors was reckless, wonton, and/or negligent in permitting the Bank to operate without sufficient supervision under and inadequate and incomplete loan policy resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.

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No. 6491 P. 8

17. The Board of Directors was reckless, wonton, and/or negligent in permitting the Bank to operate without proper supervision, with inadequate policies and procedures to monitor and control asset growth resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.
18. The Board of Directors was reckless, wonton, and/or negligent in permitting the Bank to operate without a proper business strategy that resulted in unprofitable operations and poor asset quality resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.
19. The Board of Directors was reckless, wonton, and/or negligent in permitting the Bank to operate without proper supervision, with inadequate and inefficient internal auditing programs resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.
20. The Board of Directors was reckless, wonton, and/or negligent in failing to develop and approve sound policies and objectives for the supervision of all Bank activities, consistent with the role and expertise commonly expected for directors of banks of comparable size resulting in large losses, all to the financial and economic detriment of the Bank and Shareholders.
21. The Board of Directors was reckless, wonton, and/or negligent in failing to hold regular, special and monthly meetings to review and approve: new loans and mortgages; reports of income and expenses; new, overdue, renewal, insider, charged-off and recovered loans; investment activity; operating policies, personnel assessment, and individual committee actions which inefficiencies resulted in large losses, all to the financial and economic detriment of the Bank and Shareholders.

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22. The Board of Directors was reckless, wonton, and/or negligent in failing to develop, adopt, and implement educational programs for periodic training for each member of the Board, officers and staff. The failure to develop these training programs resulted in inefficient or poor practices in lending and operations, and non-compliance with laws, rules and regulations applicable to banks chartered in North Carolina; and the poor and inefficient execution of the duties and responsibilities of the Board in connection with the safe and sound operation of the Bank resulted in large losses, all to the financial and economic detriment of the Bank and Shareholders.

23. The Board of Directors was reckless, wonton, and/or negligent in screening, selecting, and supervising the officers and senior management staff of the Bank in conducting their daily duties and assignments which resulted in large losses, all to the financial and economic detriment of the Bank and Shareholders.

24. As result of the Board of Directors' reckless, wonton and/or negligent actions, the Bank failed and on Friday, June 19, 2009, Cooperative Bank was seized and closed by the North Carolina Commissioner of Banks. Subsequently, the Federal Deposit Insurance Corporation (FDIC) was named Receiver, and sold the Bank to First Bank, which resulted in zero value for all shares of stock of the Bank.

25. The Plaintiffs were shareholders of the Bank, and suffered financial and economic losses as the market value of the Bank's stock declined as it deteriorating financial condition was reflected in the marketplace and finally when the Bank was seized and sold as a result of the aforementioned reckless, wonton and/or negligent actions of the Board of Directors, thereby making their shares of stock of the Bank worthless.

Dec. 11. 2009 5:23PM THE MCGOUGAN LAW FIRM

No. 6491 P. 10

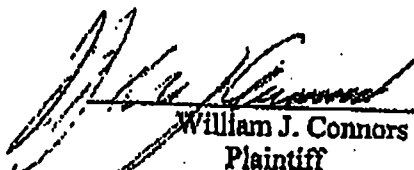
WHEREFORE, the Plaintiffs pray the Court that:


1. They recover a judgment against Defendants in the amount of \$250,000, plus interest accruing from June 30, 2009;
2. They recover their costs and expenses of this action from Defendants;
3. They recover any further relief that the Court deems appropriate.

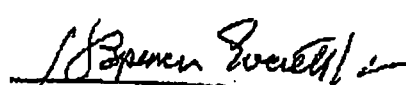
JURY DEMAND

The Plaintiffs, William J. Connors, Fred A. Barnette and H. Spencer Everett, Jr. hereby demand a Trial by Jury on all issues stated herein.

This the 9th day of December, 2009.

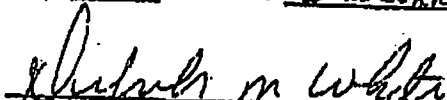

William J. Connors
Plaintiff


Fred A. Barnette
Plaintiff


H. Spencer Everett, Jr.
Plaintiff

We, William J. Connors, Fred A. Barnette and H. Spencer Everett, Jr., each being first duly sworn, deposes and says that they are the Plaintiffs in the above entitled action, that each has read the foregoing Complaint and knows the contents thereof; that the same are true of their own knowledge, except as to those matters and things stated upon information and belief, and as to those things each believes them to be true.

SWORN TO AND SUBSCRIBED BEFORE ME, A NOTARY PUBLIC, THIS
THE 9th DAY OF December, 2009


NOTARY PUBLIC

MY COMMISSION EXPIRES: August 1, 2011

Dec.11. 2009 5:23PM THE MCGOUGAN LAW FIRM

No. 6491, P. 116005

STATE OF NORTH CAROLINA

New Hanover County

FILED

File No.

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name And Address Of Plaintiff 1

William J. Connors
 1321 South Moorings Drive
 Wilmington, NC 28405

2009 DEC -9 PM 4:04

NEW HANOVER

GENERAL

CIVIL ACTION COVER SHEET
☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 6(b), Rules of Practice For Superior and District Courts

Name And Address Of Attorney Of Party, If Not Represented (complete for initial appearance or change of address)

Name And Address Of Plaintiff 2

Fred A. Barnette
 1924 London Lane

By

Wilmington

NC 28405

VERSUS

Name Of Defendant 1

James D. Hundley

Telephone No.

910-509-1736

Cell Telephone No.

910-619-3975

NC Attorney Bar No.

Attorney E-Mail Address

Summons Submitted

☒ Yes ☐ No

Name Of Defendant 2

P. Peter Fensel, Jr.

☒ Initial Appearance In Case

☐ Change of Address

Name Of Firm

William J Connors; Fred A Barnette & H. Spencer Everett Jr Pro Se

FAX No.

910-509-1736

Summons Submitted

☒ Yes ☐ No

☒ Jury Demanded In Pleading

☐ Complex Litigation

☐ Amount in controversy does not exceed \$15,000
☐ Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amended Answer/Reply (AMND-Response)
- ☐ Amended Complaint (AMND)
- ☐ Answer/Reply (ANSW-Response)
- ☒ Complaint (COMP)
- ☐ Confession of Judgment (CNFJ)
- ☐ Counterclaim vs. (CTCL)
- ☐ All Plaintiffs ☐ Only (List on back)
- ☐ Crossclaim vs. (List on back) (CRSS)
- ☐ Extend Statute of Limitations, Rule 9 (ESOL)
- ☐ Extend Time For Answer (MEOT-Response)
- ☐ Extend Time For Complaint (EXCO)
- ☐ Rule 12 Motion In Lieu Of Answer (MDLA)
- ☐ Third Party Complaint (List Third Party Defendants on Back) (TPCL)
- ☐ Other: (specify)

CLAIMS FOR RELIEF FOR:

(check all that apply)

- ☐ Administrative Appeal (ADMA)
- ☐ Appointment of Receiver (APRC)
- ☐ Attachment/Garnishment (ATTC)
- ☐ Claim and Delivery (CLMD)
- ☐ Collection on Account (ACCT)
- ☐ Condemnation (CNDM)
- ☒ Contract (CNTR)
- ☐ Discovery Scheduling Order (DSCH)
- ☐ Injunction (INJU)
- ☐ Medical Malpractice (MDML)
- ☐ Minor Settlement (MSTL)
- ☐ Money Owed (MNYO)
- ☐ Negligence - Motor Vehicle (MVNG)
- ☒ Negligence - Other (NEGO)
- ☐ Motor Vehicle Lien G.S. 44A (MVLN)
- ☐ Limited Driving Privilege - Out-of-State Convictions (PLDP)
- ☐ Possession of Personal Property (POPP)
- ☐ Product Liability (PROD)
- ☐ Real Property (RLPR)
- ☐ Specific Performance (SPPR)
- ☐ Other: (specify)

A TRUE COPY
 CLERK OF SUPERIOR COURT
 NEW HANOVER COUNTY

NOTE: Small claims are exempt from cover sheets.

Date

December 9, 2009

Signature Of Attorney/Party

NOTE: The initial filing in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a cover sheet or the filing must comply with G.S. 7A-34.1.

Dec.11. 2009 5:24PM THE MCGOUGAN LAW FIRM

No.6491 P. 12

No.	<input checked="" type="checkbox"/> Additional Plaintiff(s)
3	H. Spencer Everett, Jr.; 1511 Pembroke Jones Drive; Wilmington, NC 28405

No.	<input checked="" type="checkbox"/> Additional Defendant(s)	<input type="checkbox"/> Third Party Defendant(s)	Summons Submitted
3	H. Thompson King III		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4	R. Allen Rippy		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5	Frederick Willetts III		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6	O Richard Wright Jr.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7	Cooperative Bankshares, Inc.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION

In re:)	
)	Case No. 09-06989-8-JRL
COOPERATIVE BANKSHARES, INC.)	Chapter 7
)	
Debtor)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that she is over eighteen (18) years of age and the **NOTICE OF REMOVAL** was this day served upon the below named persons, parties and/or counsel by mailing, postage prepaid, first class mail, a copy of such instruments to such persons, parties and/or counsel listed below

William J. Connors
Fred A. Barnett
H. Spencer Everett, Jr.
1321 South Moorings Dr.
Wilmington, NC 28405

New Hanover County Clerk of Superior Court
316 Princess St
Wilmington, NC 28401

Vaiden P. Kendrick
310 North Front Street, Suite 250
Wilmington, NC 28401

Dated: December 16, 2009.



Carly S. Coe, Paralegal
Howard, Stallings, From & Hutson, P.A.
P.O. Box 12347
Raleigh, NC 27605-2347
Telephone: (919) 821-7700
Facsimile: (919) 821-7703